

SENATE BILL 708 REREFERRED

On motion of Senator Henderson and by unanimous consent, **S.B. 708** was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Economic Development.

SENATE BILL 1451 REREFERRED

On motion of Senator Parmer and by unanimous consent, **S.B. 1451** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Intergovernmental Relations.

MEMORIAL RESOLUTION

S.R. 456 - By Sims: Memorial resolution for Mrs. Clara Pope Willoughby.

CONGRATULATORY RESOLUTIONS

H.C.R. 129 - (Barrientos): Extending congratulations to the Lanier High School girls' basketball team.

S.R. 457 - By Johnson: Extending congratulations to Saint John Missionary Baptist Church of Dallas on its 111th anniversary.

S.R. 458 - By Glasgow: Extending congratulations to Don Carr on being named to the Hall of Fame of the National Cutting Horse Association.

S.R. 459 - By Glasgow: Commending Raleigh and Edith Burchfield.

S.R. 460 - By Santiesteban: Recognizing April 25, 1987, as Southwest Repertory Organization of El Paso Day in Texas.

S.R. 461 - By Barrientos: Recognizing the interns and volunteers from Southwest Texas State University, The University of Texas, and Austin High School.

S.R. 462 - By Barrientos: Commending the interns from Southwestern University.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:50 a.m. adjourned until 11:00 a.m. Monday, April 27, 1987.

FORTY-SEVENTH DAY

(Monday, April 27, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend John Hardin, Mt. Olive Missionary Baptist Church, Jasper, offered the invocation as follows:

Our Father, we thank Thee for this opportunity to be able to serve people who have entrusted us with such a great privilege, that is to serve humanity, and may what we say and do be accepted in Thy sight, may we work most of all for Thee, for Paul said we establish the law, Romans 3:31b. Please let us be faithful in what we believe is right in Thy name, for we've come this far by faith, leaning on the Lord, trusting in His Holy Word; He's never failed us yet.

David said, O give thanks unto the Lord; call upon His name: Make known His deeds among the people, Psalm 105:1; and may we remember His marvelous works, we pray that He will teach His senators wisdom, Psalm 105:22.

Finally, let us remember someone who really cares is watching over us, as they were all the children of Israel, Acts 5:21b. For what we do today will affect unborn children in years to come. Please take care of our leaders, their families, their friends, the staff who work so hard to help each one to do a better job. Just be with us, for when You are, You are more than the world against us. In Jesus' name we pray, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 24, 1987, was dispensed with and the Journal was approved.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Blake and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 105 by Blake Administration
Authorizing the creation of the Capitol Centennial Committee.

S.C.R. 106 by Henderson Jurisprudence
Granting John R. Phenix & Associates permission to sue the State of Texas and the University of Houston System.

S.B. 1452 by Barrientos Natural Resources
Authorizing and requiring the relocation of the northern boundary of the Edwards Underground Water District and authorizing an interlocal agreement to avoid double taxation and to require payment of the district's indebtedness.

S.B. 1453 by Barrientos Natural Resources
Relating to the boundaries of the Edwards Underground Water District.

S.B. 1454 by Farabee Intergovernmental Relations
Relating to compensation for judges who are members of the 50th Judicial District Juvenile Board.

S.B. 1455 by Henderson Jurisprudence
Relating to a restriction of the use of certain indemnity provisions in construction contracts.

S.B. 1456 by Brooks State Affairs
Relating to service credit in the Texas County and District Retirement System for certain previous service.

S.B. 1457 by Parker Criminal Justice
Relating to the misapplication of certain construction funds held in trust and criminal penalties for such misapplication.

S.B. 1458 by Zaffirini Intergovernmental Relations
Relating to the appointment, duties, and compensation of a public defender for Webb County.

S.B. 1460 by Brooks Finance
Anderson, Armbrister, Barrientos, Blake, Brown, Caperton, Edwards, Farabee,
Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon,
McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada,
Truan, Uribe, Washington, Whitmire, Zaffirini
Relating to an exemption from taxes on meals served to residents of certain
retirement communities.

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

- H.J.R. 8, To Committee on State Affairs.
H.B. 15, To Committee on Education.
H.B. 77, To Committee on Economic Development.
H.B. 78, To Committee on Economic Development.
H.B. 95, To Committee on Criminal Justice.
H.B. 163, To Committee on Criminal Justice.
H.B. 285, To Committee on State Affairs.
H.B. 328, To Committee on Finance.
H.B. 361, To Committee on Jurisprudence.
H.B. 362, To Committee on Jurisprudence.
H.B. 363, To Committee on Jurisprudence.
H.B. 364, To Committee on Jurisprudence.
H.B. 366, To Committee on Jurisprudence.
H.B. 368, To Committee on Jurisprudence.
H.B. 425, To Committee on State Affairs.
H.B. 595, To Committee on Finance.
H.B. 622, To Committee on Finance.
H.B. 710, To Committee on State Affairs.
H.B. 758, To Committee on Intergovernmental Relations.
H.B. 788, To Committee on Intergovernmental Relations.
H.B. 875, To Committee on Economic Development.
H.B. 969, To Committee on State Affairs.
H.B. 973, To Committee on State Affairs.
H.B. 1020, To Committee on State Affairs.
H.B. 1068, To Committee on State Affairs.
H.B. 1100, To Committee on Intergovernmental Relations.
H.B. 1134, To Committee on Natural Resources.
H.B. 1180, To Committee on Economic Development.
H.B. 1190, To Committee on State Affairs.
H.B. 1191, To Committee on Criminal Justice.
H.B. 1270, To Committee on Intergovernmental Relations.
H.B. 1307, To Committee on Natural Resources.
H.B. 1347, To Committee on Natural Resources.
H.B. 1504, To Committee on Jurisprudence.
H.B. 1509, To Committee on Natural Resources.
H.B. 1523, To Committee on Jurisprudence.
H.B. 1549, To Committee on Intergovernmental Relations.
H.B. 1560, To Committee on Intergovernmental Relations.

H.B. 1568, To Committee on Intergovernmental Relations.
H.B. 1613, To Committee on Natural Resources.
H.B. 1636, To Committee on State Affairs.
H.B. 1642, To Committee on Education.
H.B. 1650, To Committee on Finance.
H.B. 1652, To Committee on Economic Development.
H.B. 1653, To Committee on Economic Development.
H.B. 1731, To Committee on Natural Resources.
H.B. 1737, To Committee on Natural Resources.
H.B. 1747, To Committee on Natural Resources.
H.B. 1748, To Committee on Natural Resources.
H.B. 1756, To Committee on Intergovernmental Relations.
H.B. 1775, To Committee on State Affairs.
H.B. 1812, To Committee on Natural Resources.
H.B. 1834, To Committee on Natural Resources.
H.B. 1990, To Committee on Natural Resources.
H.B. 2024, To Committee on Jurisprudence.
H.B. 2106, To Committee on Education.
H.B. 2130, To Committee on State Affairs.
H.B. 2131, To Committee on Natural Resources.
H.B. 2187, To Committee on Criminal Justice.
H.B. 2308, To Committee on Criminal Justice.
H.B. 2506, To Committee on Intergovernmental Relations.
H.B. 2510, To Committee on Intergovernmental Relations.
H.B. 2513, To Committee on Jurisprudence.
H.B. 2523, To Committee on Intergovernmental Relations.

CO-AUTHOR OF SENATE BILL 808

On motion of Senator Brooks and by unanimous consent, Senator Johnson will be shown as Co-author of S.B. 808.

REPORT OF STANDING COMMITTEE

Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 899
S.B. 1282
S.B. 1360
S.B. 494
C.S.S.B. 1216
C.S.S.B. 411
S.B. 1176
S.B. 708 (Amended)
S.B. 1376
S.B. 747

SENATE BILL 431 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 431 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Patronella

Amend S.B. 431 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 11.108, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 11.108. COMPENSATION; EXPENSES. A member of the board ~~[serves without compensation but]~~ is entitled to reimbursement by the state for actual and necessary expenses incurred in performing the functions of the board. A member of the board who also is a member of the legislature is ineligible to receive compensation for service performed as a board member.

SECTION 2. This Act takes effect September 1, 1987.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 630 WITH HOUSE AMENDMENT

Senator Farabee called S.B. 630 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment - Patronella

Amend S.B. 630 by deleting Section 8 and renumbering all subsequent sections accordingly.

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 80 WITH HOUSE AMENDMENTS

Senator Green called S.B. 80 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Patrick

On line 12, page 1, change "20" to "15"

On line 9 change "20" to "15", page 2

Floor Amendment No. 2 - Echols

Amend Second Reading House Floor Amendment No. 1 to S.B. 80 by striking the amendment and substituting the following:

(1) on page 1, line 12, strike "20 years or more" and substitute:
15 years or more beginning September 1, 1987;
16 years or more beginning September 1, 1988;
17 years or more beginning September 1, 1989;
18 years or more beginning September 1, 1990;
19 years or more beginning September 1, 1991; and
20 years or more on or after September 1, 1992;

(2) On page 2, line 9, strike "20 years or more" and substitute:

15 years or more beginning September 1, 1987;
16 years or more beginning September 1, 1988;
17 years or more beginning September 1, 1989;
18 years or more beginning September 1, 1990;
19 years or more beginning September 1, 1991; and
20 years or more on or after September 1, 1992.

The amendments were read.

Senator Green moved to concur in the House amendments.

The motion prevailed viva voce vote.

SENATE BILL 20 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 20** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Robinson

Amend **S.B. 20**, by deleting line 26 on page 8 and lines 1, 2, 3, and 4 on page 9 and inserting the following language:

(2) Payment of the impoundment fee and other charges due the sheriff; and
(3) if applicable, payment of any amount for maintenance and damages due the
owners of the private property from which the estray was impounded."

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed viva voce vote.

SENATE BILL 521 WITH HOUSE AMENDMENTS

Senator Sarpalius called **S.B. 521** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Wilson

Amend **S.B. 521** on page 1, lines 13 and 14, by striking "Subdivision (4) of Subsection (a) of Article 6701d-1, Revised Statutes, and".

Floor Amendment No. 2 - Wilson

Amend **S.B. 521** on page 1, line 15, by striking "an" and substituting "a police".

The amendments were read.

Senator Sarpalius moved to concur in the House amendments.

The motion prevailed viva voce vote.

VOTE BY WHICH SENATE CONCURRED IN HOUSE AMENDMENTS TO SENATE BILL 95 RECONSIDERED

On motion of Senator Blake and by unanimous consent, the vote by which the Senate concurred in House amendments to **S.B. 95** was reconsidered.

Question - Shall the Senate concur in the House amendments to **S.B. 95**?

Senator Blake moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 95 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Blake, Chairman; Glasgow, Sims, Harris and Brown.

SENATE BILL 355 WITH HOUSE AMENDMENTS

Senator Parmer called S.B. 355 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment - Campbell

Amend S.B. 355 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Sections 1 and 2, Article 1645, Revised Statutes, are amended to read as follows:

Sec. 1. In any county having a population of 10,000 inhabitants or over according to the last preceding Federal Census, there shall be appointed every two years an auditor of accounts and finances, the title of said office to be County Auditor, who shall hold his office for two years and who shall receive from the County General Fund ~~[as compensation for his services]~~ an annual salary as compensation for services, travel expenses, and other allowances. ~~The amount of the compensation and allowances shall [from the County General Fund of not more than the amount allowed or paid the Assessor-Collector of Taxes in his county, such salary of the County Auditor to]~~ be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in the county, a majority ruling. ~~The amount of the compensation and allowances may not exceed an amount equal to the compensation and allowances received from all sources by the highest paid elected county officer, other than a judge of a statutory county court, whose salary and allowances are set by the Commissioners Court. The[-said] annual salary shall [to] be paid monthly [out of the General Fund of the county].~~ The action of the District Judge or District Judges in determining and fixing the compensation and allowances ~~[salary]~~ of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county and the Clerk thereof shall certify the same for observance to the Commissioners Court which shall cause the same to be recorded in its minutes.

Sec. 2. In addition to the procedure for the appointment of a County Auditor prescribed by Article 1646, a County Auditor may be appointed in a county in which the office is not required under Section 1 of this article if the District Judge or District Judges having jurisdiction in the county, by majority vote, determine that the county's financial circumstances warrant the appointment. The provisions of Section 1 of this article relating to compensation, allowances, ~~[salary]~~ and term of office apply to a County Auditor appointed under this section. A County Auditor appointed under this section shall qualify for office and perform the duties of a County Auditor as provided by law.

SECTION 2. Article 1646, Revised Statutes, is amended to read as follows:

Art. 1646. When the Commissioners' Court of a county not mentioned and enumerated in ~~[the preceding]~~ Article 1645, Revised Statutes, shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall

enter an order upon the minutes of said Court fully setting out the reason for and necessity of an Auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a County Auditor as provided in ~~[the preceding]~~ Article 1645, who shall qualify and perform all the duties required of County Auditors by the laws of this State. The provisions of Section 1 of Article 1645 relating to compensation and allowances apply to a County Auditor appointed under this Article.~~[- and who shall receive as compensation for his services as County Auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be determined and fixed by the District Judge or District Judges having jurisdiction in the county, a majority thereof ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county; provided, however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners' Court shall be made by order of such Court and recorded in the minutes of the Commissioners' Court of such County.] Provided, said District Judge or District Judges shall have the power to discontinue the services of a County Auditor as provided for in this Article at any time after the expiration of one (1) year from the appointment, when it is clearly shown that such Auditor is not a public necessity, and his services are not commensurate with his salary.~~

SECTION 3. Article 1648, Revised Statutes, is amended to read as follows:

Art. 1648. QUALIFICATION

Sec. 1. Said county auditor [shall be a citizen of the county of at least two years residence, and] must be [a man] of unquestionable good moral character and intelligence, thoroughly competent in public business details; and he must be a competent accountant of at least two years experience in auditing and accounting. The judges making such appointment must first carefully investigate and consider the qualifications of said person. [If no such qualified citizen of the county can be procured, said judges may appoint a qualified citizen from another county.]

Sec. 2. During each term of office, the county auditor must successfully complete at least 40 classroom hours of instruction in courses relating to the duties of the county auditor and accredited by the Texas State Board of Public Accountancy as continuing professional education credits for certified public accountants. On the completion of the courses and the accumulation of the continuing professional education credits, the county auditor shall certify that fact to the district judge or district judges having jurisdiction in the county.

Sec. 3. For purposes of removal for incompetency under another law, "incompetency" in the case of a county auditor includes the failure to complete the courses in accordance with this article.

SECTION 4. Section 1, Chapter 500, Acts of the 65th Legislature, Regular Session, 1977 (Article 1666b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. In the preparation of the county budget, the commissioners court in counties having a population in excess of 125,000 [~~1,200,000~~], as shown by the last preceding United States Census, may appoint a budget officer to prepare a county budget for the current fiscal and calendar year.

SECTION 5. Notwithstanding the amendments by this Act of Articles 1645 and 1646, Revised Statutes, a county auditor in office on the effective date of this Act is entitled to be paid an annual salary that is not less than the annual salary the county auditor was being paid on the effective date of this Act.

SECTION 6. The continuing education requirement established for a county auditor by Article 1648, Revised Statutes, as amended by this Act, applies beginning with the auditor's first full term that begins on or after the effective date of this Act.

SECTION 7. Chapter 466, Acts of the 64th Legislature, 1975 (Article 1645e-3, Vernon's Texas Civil Statutes), and Chapter 578, Acts of the 65th Legislature, Regular Session, 1977 (Article 1645e-4, Vernon's Texas Civil Statutes), are repealed.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1 - Guerrero

Amend C.S.S.B. 355 by adding a new Section 5 to read as follows and by renumbering the existing Section 5 and subsequent sections appropriately:

SECTION 5. Title 33, Revised Statutes, is amended by adding Article 1580a to read as follows:

Art. 1580a. COUNTY PURCHASING AGENTS IN POPULOUS COUNTIES

Sec. 1. The commissioners court in a county that has a population of more than 125,000 according to the most recent federal decennial census may employ a county purchasing agent under this article. This article does not apply to a county that has appointed a purchasing agent under Chapter 9, page 602, Special Laws, Acts of the 46th Legislature, 1939 (Article 1580 note, Vernon's Texas Civil Statutes), and that has not abolished such position as authorized by law.

Sec. 2. A purchasing agent employed under this article shall serve at the pleasure of the commissioners court.

Sec. 3. The commissioners court may employ other persons necessary to assist the purchasing agent in performing the agent's functions.

Sec. 4. Under the supervision of the commissioners court, the purchasing agent shall carry out the functions prescribed by law for the county auditor in regard to county purchases and contracts and shall administer the procedures prescribed by law for notice and public bidding for county purchases and contracts.

Sec. 5. A county that has established the position of county purchasing agent under this article may abolish the position at any time. On the abolition of the position, the county auditor shall assume the functions previously performed by the purchasing agent.

The amendments were read.

Senator Parmer moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 464

Senator Lyon offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to honor an outstanding native son of the Lone Star State, Don Gay of Mesquite, Texas; and

WHEREAS, An original Honoree of the Pro Rodeo Hall of Champions, Mr. Gay is the only person to ever win eight bull riding championships; and

WHEREAS, Raised in Mesquite, Texas, Mr. Gay inherited his fascination with rodeos from his father, Neal; and

WHEREAS, A member of the Professional Rodeo Cowboys Association since his sophomore year in high school, Mr. Gay broke bull riding's single season earnings record for eight consecutive years; and

WHEREAS, The Lone Star Circuit Bull Riding Champion for 1975-1976 and 1978, he holds the record for high scores at the National Finals Rodeo; and

WHEREAS, In his precedent setting career, this talented young man has been the only man to qualify for 13 years at the National Finals Rodeo in bull ridings; and

WHEREAS, The first cowboy to receive the Special Achievement Award from the All Sports Association, Mr. Gay is currently serving with great distinction as president of Arena Promotion at Mesquite Arena; and

WHEREAS, His special talents and expertise have helped make the Mesquite Championship Rodeo a thrilling exhibition of skill and spirit; and

WHEREAS, Throughout his career, Mr. Gay has been strengthened by the love and support of his lovely wife, Terri, and daughter, Talli Leigh; and

WHEREAS, The outstanding accomplishments and achievements of this superb athlete are truly worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby commend Don Gay for his contributions to the world of rodeo; and, be it further

RESOLVED, That a copy of this resolution be prepared for him as an expression of highest esteem and respect from the Texas Senate.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Lyon introduced Don Gay and his parents, Mr. and Mrs. Neal Gay, to the Members of the Senate.

These guests were welcomed by the Senate.

SENATE RESOLUTION 468

Senator Anderson offered the following resolution:

WHEREAS, The Senate of the State of Texas joins with the citizens of Longview, Texas, in celebrating Longview Day on April 27, 1987; and

WHEREAS, Longview is the county seat of Gregg County; settled in the early 1800s, it was developed rapidly by planters from the Old South; and

WHEREAS, Again, in the 1930s, Longview's population skyrocketed when this city was discovered to be the center of the East Texas Oil Field; and

WHEREAS, An agricultural center, Longview is also home to many important industries, including oil refineries, food processing plants, and manufacturers, such as Marathon, Le Torneau, Texas Eastman, Trinity Industries, and the largest brewery in the state, Stroh's Brewery; and

WHEREAS, With a population of 62,700 proud Texans, Longview's friendly people are among its chief assets; and

WHEREAS, The only city in the State of Texas with a privately-funded Industrial Development Corporation, Longview is the home of the highly respected Le Torneau College; and

WHEREAS, Many cultural and tourist attractions are found in this outstanding city, such as the Great Texas Balloon Race, the Alley Art Show, and the East Texas Oil Museum, and the world's largest and richest annual bass fishing tournament in nearby Lake of the Pines; an 18,700 acre-lake, it was built by the Corps of Engineers amid rolling forest land and is considered one of the most beautiful lakes in the state; and

WHEREAS, The climate and recreational facilities of Longview, as well as its vibrant economy and warm and hospitable people, are outstanding and truly worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby applaud the City of Longview for its many contributions made to our great state and rejoice in the celebration of Longview Day; and, be it further

RESOLVED, That a copy of this resolution be prepared for the City of Longview as an expression of highest esteem from the Texas Senate.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Anderson introduced a large delegation of citizens from Longview and former Members of the Senate, the Honorable Ralph Hall, Member of Congress, and the Honorable Jack Strong.

The Senate welcomed these guests and former colleagues.

SENATE BILL 248 ON THIRD READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

S.B. 248, Relating to the compensation of a retired judge assigned as a visiting judge.

The bill was read third time and was finally passed viva voce vote.

SENATE BILL 124 ON THIRD READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

S.B. 124, Relating to the expunction of arrest records.

The bill was read third time and was finally passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 126 ON THIRD READING

Senator Lyon moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

S.B. 126, Relating to the issuance of a search warrant based on the sworn oral statement of a peace officer to a magistrate.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Anderson, Armbrister, Blake, Brooks, Brown, Edwards, Farabee, Green, Henderson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parmer, Sarpalius, Sims, Tejeda, Zaffirini.

Nays: Caperton, Glasgow, Harris, Johnson, Parker, Santiesteban, Truan, Uribe, Washington, Whitmire.

Absent: Barrientos.

The bill was read third time.

Senator Washington offered the following amendment to the bill:

Amend S.B. 126 in the following manner:

1. Add the following on page 1, line 22, after the word "If":
"a judge makes a written finding that exigent"
2. Strike the words, "may modify the original warrant" from page 1, line 44, and replace with the following:
"shall attach to the original warrant a written finding of the exigent circumstances making it reasonable to dispense with a written affidavit as required by Subsection (b) of Article 18.01"
3. Strike the following from page 1, lines 52-54:
"either of the following: (A)"
4. Strike the following from page 1, lines 54-55:
"or (B) longhand verbatim record made by the magistrate;"
5. Strike lines 59-62 from page 1 and replace with the following:
"(e) A magistrate who makes a voice recording or who has a certified court reporter make a stenographic record under Subdivision (2) of Subsection (d) of this article, in addition to the requirements of Subsection (d), shall:
6. Strike lines 2-5 on page 2 and replace with the following:
"(g) For purposes of this article, "exigent circumstances that make it reasonable to dispense with a written affidavit" means circumstances that would lead a peace officer to reasonably believe that there existed a significant possibility that critical evidence would be lost in the time it would take to obtain a search warrant as required by Subsection (b) of Article 18.01. Factors to be considered in determining the reasonableness of dispensing with a written affidavit include, but are not limited to, the following:
 - (1) the amount of time necessary to obtain a warrant under Article 18.01;
 - (2) the reasonableness of the belief that evidence will be destroyed or its acquisition rendered impossible due to the delay incident to obtaining a warrant under Article 18.01;
 - (3) the importance of the evidence;
 - (4) the possibility of danger to peace officers who have the site of the evidence under guard or surveillance; and
 - (5) the existence of information indicating that the possessor of the evidence is aware that he is under surveillance or suspicion."

The amendment was read and was adopted by the following vote: Yeas 29, Nays 1.

Nays: Uribe.

Absent: Barrientos.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was finally passed viva voce vote.

RECORD OF VOTES

Senators Santiesteban and Washington asked to be recorded as voting "Nay" on the final passage of the bill.

GUEST PRESENTED

Senator Lyon was recognized and introduced the Capitol Physician for the Day, Dr. Milton V. Davis of Kaufman.

The Senate welcomed Dr. Davis and extended to him appreciation for his service.

GUEST PRESENTED

The President introduced his guest, seated at the Rostrum, Mr. Tom Meredith of Longview.

The Senate welcomed this distinguished guest.

SENATE BILL 353 ON THIRD READING

Senator Tejeda moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

S.B. 353, Relating to operating or towing a vehicle with an open bed or open flatbed when a child is occupying the bed.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Brooks, Brown, Caperton, Farabee, Green, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

Nays: Anderson, Blake, Edwards, Glasgow, Harris, Sarpalius, Sims.

The bill was read third time and was finally passed viva voce vote.

RECORD OF VOTES

Senators Anderson, Glasgow, McFarland, Montford and Sims asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 298 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 298, Relating to the continuation, composition, powers, and duties of the Texas Department of Human Services and to the administration of programs for children, the disabled, and the elderly; providing penalties.

The bill was read second time.

Senator Washington offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 298 as follows:

- (1) On page 19, between lines 55 and 56, insert the following:

"The department shall review and approve such rules to assure that all agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports."

- (2) On page 19, line 58, between "department" and "shall", insert "or state agency, as appropriate,".

- (3) On page 19, line 60, between "services" and the semicolon, insert "from the department".

- (4) On page 19, line 62, after "department", insert ", state agency,".

- (5) On page 19, line 66, between "department" and the semicolon, insert "or state agency".

- (6) On page 20, line 16, after "department", insert "The report shall include any recommendations that the department shall provide protective services, and shall be forwarded to the department within 24 hours of the state agency's determination that protective services are needed."

- (7) On page 20, strike lines 19-26, and substitute the following:

"Sec. 48.041. REVIEW OF INVESTIGATIONS. (a) The department shall review each report of an investigation conducted under Section 48.037 of this code of abuse, exploitation, or neglect in a facility operated by a state agency. The review shall determine whether or not the investigation was conducted according to applicable rules and the standards set forth in Section 48.038(a); if not, the department shall conduct its own investigation. The department shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings and recommendations to the governing body of the agency that conducted the investigation for any necessary corrective action."

- (8) On page 20, line 33, strike "as necessary under this subsection" and substitute "where necessary to carry out the intent of this chapter".

- (9) On page 26, line 8, after "subchapter", add

"The Office of Youth Care shall review and approve such rules to assure that all agencies implement appropriate standards for the conduct of investigations and that uniformity exists among agencies in the investigation and resolution of reports."

- (10) On page 26, strike lines 27 and 28 and substitute:

"operated by a state agency. The review shall determine whether or not the investigation was conducted according to applicable rules and the standards set forth in Section 34.05(b); if not, the office shall conduct its own investigation. The office shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report"

- (11) On page 26, strike lines 35 and 36 and substitute:

"agency. The office shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings and recommendations"

- (12) On page 26, strike lines 43 and 44 and substitute:

“this code. The office shall conduct an investigation in any case where necessary to carry out the intent of this chapter and shall report any findings and”.

The amendment was read and was adopted viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 298 by striking lines 17 through 25 on page 16 and lines 1 through 11 on page 17 in their entirety and substituting the following:

Sec. 22.014. MEMORANDUM OF UNDERSTANDING ON LONG-TERM CARE SERVICES. (a) The department, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation shall adopt a memorandum of understanding that:

(1) clearly defines the responsibilities of each agency in providing, regulating, and funding long-term care services; and

(2) defines the procedures and standards that each agency will use to provide, regulate, and fund long-term care services.

(b) The memorandum must provide that no new rules or regulations that would increase the costs of providing the required services or would increase the number of personnel in long-term care facilities may be promulgated by either the Department, the Department of Health, or the Department of Mental Health and Mental Retardation unless required by state or federal law or federal regulations, or the Commissioner of Health certifies that the new rules or regulations are urgent as well as necessary to protect the health or safety of recipients of long-term care services.

(c) The memorandum must provide that any rules or regulations proposed by the Department, the Department of Health, or the Department of Mental Health and Mental Retardation which would increase the costs of providing the required services or which would increase the number of personnel in long-term care facilities must be accompanied by a fiscal note prepared by the agency proposing said rules and submitted to the department. The fiscal note should set forth the expected impact which the proposed rule or regulation will have on the cost of providing the required service and the anticipated impact of the proposed rule or regulation on the number of personnel in long-term care facilities. The memorandum must provide that in order for a rule to be finally adopted the Department must provide written verification that funds are available to adequately reimburse long-term care service providers for any increased costs resulting from the rule or regulation. The department is not required to provide written verification if the Commissioner of Health certifies that a new rule or regulation is urgent as well as necessary to protect the health or safety of recipients of long-term care services.

(d) The memorandum must provide that upon final adoption of any rule increasing the cost of providing the required services, the Department must establish reimbursement rates sufficient to cover the increased costs related to the rule. The department is not required to establish reimbursement rates sufficient to cover the increased cost related to a rule or regulation if the Commissioner of Health certifies that the rule or regulation is urgent as well as necessary to protect the health or safety of recipients of long-term care services.

Reletter the remaining subsections accordingly.

The amendment was read and was adopted viva voce vote.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 298
ON THIRD READING**

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 298 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

MEMORIAL RESOLUTION

S.R. 466 - By Montford: Memorial resolution for DeWitt P. Thompson.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 465 - By Parker: Expressing sincere appreciation to Elizabeth A. Phillips.

S.R. 467 - By Caperton: Extending welcome to Dr. Stephen Benold, Capitol Physician for the Day.

S.R. 469 - By Green: Expressing sincere appreciation to Nadine C. May.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:22 p.m. adjourned in loving memory of Kimberly Jones until 11:00 a.m. tomorrow.

**FORTY-EIGHTH DAY
(Tuesday, April 28, 1987)**

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Lord, hear our prayer this morning. We thank Thee that we may assemble this day and that these may stand without fear and be heard on issues affecting the people of our State. May each one know in full measure that freedom belongs to one only when it belongs to all and that we are independent only when we serve each other. In His name, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.